

2:22-cv-00541-CLM

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- The City's unjust enrichment claim (Count Five) should be dismissed because it is untimely and is based on an untenable fraudulent misrepresentation claim.
- The City's declaratory judgment claim (Count Six) should be dismissed because it is not a standalone cause of action and because there is no requirement in the applicable Alabama statute detailing the method for measuring and verifying the energy savings guarantee in a guaranteed energy costs savings contract.
- The City's claim for breach of the covenant of good faith and fair dealing (Count Eight) should be dismissed because Alabama has limited such claims to the insurance contract context.

For these and for the reasons explained in Trane's supporting memorandum of law (which is being filed contemporaneously herewith), Trane respectfully requests that the Court grant its motion.

Respectfully submitted, this 29th day of April, 2022.

/s/ Matthew H. Lembke

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the above and foregoing on:

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by placing a copy of same in the United States Mail, first-class postage prepaid and addressed to his regular mailing address, on this the 29th day of April, 2022.

/s/ Matthew H. Lembke
OF COUNSEL